

~~IN THE DRAWINGS~~

Please replace sheet 1/3 of the drawings with the attached replacement sheet.

REMARKS

Claims 1-16 and 20 are in this application. Claims 1, 3, 4, 5, 10, 11, 14, and 20 have been amended. Claims 17-19 have been cancelled. Claim 1 has been amended to include that the light source which is a light emitting diode emits light of a wavelength of 635 nm. This is supported at, among other places, page 3, lines 25-27; and page 4, lines 20-21 and 34.

The abstract of the disclosure previously on file in this application has been replaced by a new abstract.

A new drawing sheet 1/3 accompanies this response.

The published application includes the subject headings.

Based on the Examiner's comments on page 7 of the Office Action, Claims 3, 5, 10, 11 and 14 have been amended. It is respectfully requested that the Examiner's objections to these claims be withdrawn.

According to the Office Action, claims 1-2, 11-12, 16 and 20 are rejected as being anticipated by Thistlethwaite (US patent 5,402,240). This is respectfully traversed.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *In re Paulsen*, 30 F.3d 1475, 31 USPQ 1671 (Fed. Cir. 1994). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Applicants have designed a system specifically for measuring the concentration of gossypol. This system includes using a light emitting diode as the light source wherein a wavelength emitted is 635 nm. According to column 7, lines 41-45 of Thistlethwaite et al., an object of the invention is to provide an instrument wherein the light source includes a low

power, lens-end light emitting diode producing a beam of narrow-band red light with a dominant wave length of 660 nm. Furthermore, according to column 10, lines 31-34, the new densimeter uses a lens-end LED which emits a broadly focused beam of red light (having inherently narrow width and a dominant wavelength of 660nm).

Furthermore, the claimed device includes a log amplifier for amplifying an output signal of a converter and at column 11, lines 22-26, Thistlethwaite, specifically teaches away from using a log amplifier.

Since the use of a wavelength of 635 nm is not disclosed in the cited reference and the reference teaches away from the use of a log amplifier all features of the claims are not disclosed in the reference and thus, claims 1, 2, 11, 12, 16 and 20 are not anticipated. It is respectfully requested that this rejection be withdrawn.

According to the Office Action, claims 3-10, 13-15 and 17-19 are obvious in view of Thistlethwaite. This rejection is respectfully traversed.

As stated in MPEP 2141, citing *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n. 5 (Fed. Cir. 1986), when applying 35 USC 103, the following tenets of patent law must be adhered to:

- 1) the claimed invention must be considered as a whole;
- 2) the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; and
- 3) the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention.

Reasonable expectation of success is the standard with which obviousness is determined. *In re Merck & Co., Inc.*, 800 F.2d 109, 231 USPQ 375 (Fed. Cir. 1986).

As explained above, the wavelength described by Thistlethwaite differs from the wavelength of 635 nm emitted by the light emitting diode of the claimed invention. The color developed is greenish due to the formation of a complex compound of gossypol that has an absorption maxima at 635 nm and the reference teaches away from the use of a log amplifier.

Therefore, considering the claimed invention as a whole; Thistlethwaite as a whole and the fact that it does not suggest the desirability of making the combination claimed in this application and in fact, teaches away from it, the claimed invention is not obvious.

Accordingly, it is respectfully requested that the rejection be withdrawn.

It is submitted that the application is in condition for allowance and favorable consideration is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Janet I. Cord", written over a horizontal line.

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